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Letter dated 5 January 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 9 October 2003 (S/2003/1012). The Counter-Terrorism Committee has received the attached fourth report from Pakistan submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 2 January 2004 from the Permanent Representative of Pakistan to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

With reference to your letter dated 3 October 2003, I enclose Pakistan's interim response to the additional information sought by the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001) (see enclosure). Replies to questions 1.8 and 1.10 will be provided later.

(*Signed*) Masood **Khalid**
Acting Permanent Representative

Enclosure

PAKISTAN'S INTERIM RESPONSE TO THE COUNTER TERRORISM COMMITTEE OF THE UN SECURITY COUNCIL

1. IMPLEMENTATION MEASURES

EFFECTIVENESS IN THE PROTECTION OF THE FINANCIAL SYSTEM

Paragraph 1.1

Q. In its third report, Pakistan explains that the definition provided by the Anti-Terrorism Act 1997 covers all financial instruments and other valuables that can be "cashed" by an 'authorized officer' as provided for under section 110(c) read in conjunction with Section 2(z) (aa) (i) (a) & (ii) (b) of the said Act. The CTC would therefore welcome examples of cases in which the relevant sections of the said Act were applied since this statute came into force.

Response: The Government of Pakistan has put the names of activities of banned organizations in Schedule IV of Anti Terrorist Act 1997. An effective monitoring mechanism has been devised and put in place at grass root level to keep the activities of the extremists under observation. This monitoring has contributed positively to the law and order situation in general and reduced the risks of freedom of action of the extremists.

Paragraph 1.2

With regards to the extraterritorial jurisdiction of Pakistan's national courts in relation to the crime of the financing of terrorism, the CTC notes that Section 11J of the Anti-Terrorism Act establishes the financing of terrorism as a criminal offence under the law of Pakistan (at page 4 of the third report). The CTC also notes that section 3 of the Penal Code of Pakistan provides that "any persons liable, by any Pakistani Law, to be tried for an offence committed beyond Pakistan shall be dealt with according to the provisions of this Code for any act committed beyond Pakistan in the same manner as if such act had been committed within Pakistan" (at page 25 of the supplementary report of Pakistan). The CTC would, therefore, be grateful if Pakistan could outline the relevant provisions under its Anti-Terrorism Act 1997 which establish jurisdiction for Pakistani courts over the financing of terrorism when committed beyond Pakistan by any person who is subsequently found in Pakistan?

Response: Section 11EE of Anti Terrorist Act 1997 provides vast powers to Law Enforcing Agencies for keeping surveillance on abettors, perpetrators, financers, trainers, instigators and the principal accused. The implementation of these provisions is extended up to the entire territory of Pakistan and applicable to every citizen of Pakistan.

Paragraph 1.3

The CTC notes that Pakistan, at present, does not have statutory provisions in place which allow the Government of Pakistan to freeze funds, financial assets or economic resources of suspected persons or entities, either resident or non-resident, at the request of another State (at page 4 of the third report). However, the effective implementation of subparagraph 1(c) of the resolution requires the establishment of such provisions. The CTC would therefore be grateful to learn the steps undertaken by the Government of Pakistan to introduce those provisions into its domestic law?

Response: If the Government of Pakistan has substantial evidence against individuals/organizations for their involvement in terrorist related activities, then they are proscribed under the Anti-Terrorism Act, 1997 and eventually their accounts/funds are frozen.

Paragraph 1.4

The CTC would welcome a progress report on the enactment of the Anti-Money-Laundering Law, and the establishment of a Financial Intelligence Unit (see page 5 of the third report). In that regard, please indicate the date on which it is anticipated that the new law will come into force. If the law is already in force, please outline the relevant provisions.

Response: The Government of Pakistan is actively seized with the early enactment of draft Anti-Money Laundering (AML) and Proceeds of Crimes Bill, which is currently under thorough review by the relevant government departments. The draft would be submitted to the Cabinet for approval shortly, thereafter it would have to be passed by the Parliament before its implementation. It is, therefore, difficult to put a definite date on which the law will come into force, however, it is expected to be enforced in the first half of 2004. The Financial Intelligence Unit (FIU) will be established under the provisions of the AML law.

EFFECTIVENESS OF COUNTER-TERRORISM MACHINERY

Paragraph 1.5

In relation to subparagraph 2(b) of the resolution and its response thereto, Pakistan indicates that the two main channels for the exchange of information between Pakistan and other countries are Interpol and Pakistan's bilateral treaties on extradition. The CTC would appreciate receiving figures indicating the number of cases in which information was exchanged as well the number of times in which the exchange of information was significant in determining the outcome of particular cases.

Response: Pakistan has been actively cooperating and exchanging information with many countries around the world, with positive outcome in a significant number of cases.

Paragraph 1.6

The CTC would welcome receiving a progress report in relation to the amendments introduced in order to make the Anti-Terrorism Act 1997 more effective as regards the implementation of subparagraphs 2 (d) and (e) of the Resolution (see page 7 of the third report).

Response: Various amendments have been made in Sections 6, 7, 11, 19, 21 and 39 of the Anti-Terrorism Act, 1997. Section 11H is being further amended to include the act of financing terrorism as an offence.

Paragraph 1.7

The CTC notes that Pakistan's courts have jurisdiction over persons 'directing' the activities of an organization concerned with the preparation, instigation or commission of acts of terrorism whilst outside the Pakistani territory as provided for under 11V(2) of the Anti-Terrorism Act 1997. Could Pakistan provide the CTC with examples of cases where this provision was employed? In addition, could Pakistan outline other similar provision(s) under its domestic law which extend(s) the jurisdiction of its national courts over acts of terrorism committed outside Pakistan, other than the above-mentioned act of 'directing', such as the financing and the commission of terrorist acts:

(i) By non-citizens who are also not in the service of Pakistan as provided for under Section 4 of the Pakistan's Penal Law (see page 13 of the supplementary report).

(ii) In places other than tribal areas or on any ship or aircraft registered in Pakistan, as provided for under Section 188 of the Criminal Code of Pakistan (at page 13 of the supplementary report). The CTC would appreciate receiving an account of the legal provisions concerning persons who are not citizens of Pakistan.

Response: Section 3 of PPC fulfils the requirements regarding jurisdiction of Pakistan's courts over acts of terrorism committed outside Pakistan. The provisions of anti-terrorism act of 1997 are equally applicable to the Pakistani nationals or otherwise.

Paragraph 1.8

Could Pakistan provide the CTC with the relevant domestic legal provisions (see page 8 of the third report) which give effect to the terms of the international conventions and protocols related to the prevention and suppression of international terrorism to which Pakistan is already a party?

Paragraph 1.9

The CTC would also welcome receiving a progress report in relation to the ratification of or accession to the international instruments related to the prevention and suppression of international terrorism, to which Pakistan is not yet a party.

Response: The two Conventions (International Convention for the Suppression of the Financing of Terrorism, and Convention on the Marking of Plastic Explosives for the Purpose of Detection), which have not been ratified/acceded to by Pakistan so far are still under consideration for ratification/accession.

Paragraph 1.10

Please indicate to the Committee whether the Extradition Act 1972 of Pakistan applies the principle aut dedere aut judicare in relation to the offences referred to in sub-paragraph 2(c) of the Resolution? Are those offences listed in the Schedule of the Extradition Act 1972? If the answer to the last question is in the affirmative, please outline the crimes set out in the list? If the answer is in the negative, the CTC would appreciate receiving a progress report on the examination referred to at page 9 of the third report with a view to incorporating those offences in the Schedule of the Extradition Act 1972.

Paragraph 1.11

Could Pakistan provide the CTC with the criteria applicable in its domestic law for determining what constitutes a political offence? Are any of the offences, referred to in sub-paragraph 2(c) of the Resolution or in the international conventions and protocols related to the prevention and suppression of international terrorism, considered to constitute "political offences" under the domestic law of Pakistan? If such is not the case, the CTC would appreciate receiving an outline of the relevant domestic provisions.

Response: The concept of political offence does not exist in our laws. The relevant provisions are covered under the Anti-terrorism Act of 1997, sufficient details of which have already been provided to the CTC.

Paragraph 1.12

Is there a special law in force in Pakistan concerning mutual assistance in criminal matters? Are the principles of reciprocity and/or comity applied in that regard?

Response: Pakistan has bilateral agreements with a number of countries for mutual assistance in criminal matters. Principal of reciprocity is applied in all such cases.

EFFECTIVENESS OF CUSTOMS, IMMIGRATION AND BORDER CONTROLS

Paragraph 1.13

The effective implementation of subparagraph 2(g) requires that borders be efficiently controlled in order to prevent the movement of terrorist or terrorist groups. With a view to achieving this efficiency, has Pakistan put in place a unified data system for use at all entry/exit points? If such is not the case, how many entry/exit points, whether by air, land, or sea are currently included in the data system. Does Pakistan's system register traveller data immediately upon entry/exit, or is this data entered later (i.e. by hand on the basis of data gathered by filling in handwritten cards at all entry and exit points)?

Response: Personal Identification Secure Comparison Evaluation System (PISCES) is being implemented under phased programme. In 1st phase; the system was implemented in November 2001 at Karachi Airport, in 2nd phase; the system was implemented in November – December 2002 at four other major airports i.e. Islamabad, Lahore, Peshawar and Quetta. In total there are 20 Ports of Immigration including sea and land routes. In the 3rd phase the system will be implemented at seven ports out of which three are seaports at Karachi and remaining four are airports. This phase is to be completed by 31 December 2003. All the remaining ports of embarkation/disembarkation would have PISCES system by 31st December 2004, after which a countrywide border control system would become functional. After the

implementation of the system, the hand written cards procedure has been stopped, seaports are being processed through automated system and travel documents are being scanned also. Countrywide database of travellers is being stored in the FIA Headquarters on a dedicated network.

Paragraph 1.14

If "traveller data systems" are maintained at all border points, do these systems incorporate information of a 'watch list' nature? If such is the case, is the information in question updated regularly taking account of all relevant sources?

Response: The PISCES system functions against pre-defined watch lists including Exist Control list, Stolen Passport list, Lost Passports list, Black Listed individuals etc, with reference to issuance of Passport and other Proclaimed Offenders of local Police/International Organizations. These watch lists are updated regularly.

Paragraph 1.15

Does Pakistan have laws and regulations in place imposing an obligation on common carriers to meet the cost of returning travellers, who have arrived at Pakistan's borders without adequate documentation, to their point of departure?

Response: Pakistan is signatory to all IATA Rules and Regulations, under which common carriers are under obligation to take back illegal immigrants.

Paragraph 1.16

As regards the effective control on the issuance of identity papers and travel documents referred to in subparagraph 2 (g) of the Resolution, does Pakistan issue national identity documents? If so, who is entitled to receive the document? Is the system employed for issuing identity documents computerized? In that regard, could Pakistan also provide the CTC with information as to the type of data stored and the agencies with which such information is shared?

Response: Following identity documents are issued by the Government of Pakistan:-

i) National Identity Card (NIC) is issued to resident Pakistanis of the age of 18 years and above.

ii) National Identity for Overseas Pakistanis (NICOP) is issued to non-resident Pakistanis whose stay abroad exceeds six months and Pakistanis holding dual nationality.

iii) Pakistan origin card (POC) is issued to Pakistan origin foreigners, their spouses and children.

iv) Children Registration Certificate (CRC) is issued on demand to Pakistanis below 18 years.

The system employed for issuing identity documents is computerized. The data collected and stored consists of complete identification and contact details of a person. The information is shared with all the law enforcing agencies of Pakistan.

Paragraph 1.17

Does Pakistan allow for the routine entry into or exit out of its territory by its nationals or by nationals from other States on production of a national identity card (as opposed to a passport)?

Response: No. Pakistan does not allow entry into/exit out of Pakistan without passports/valid travel documents.

EFFECTIVENESS OF CONTROLS PREVENTING ACCESS TO WEAPONS BY TERRORISTS

Paragraph 1.18

With regards to the disarmaments measures referred to at page 6 of its third report, could Pakistan provide the CTC with an outline of the mechanism which it employs to disarm persons who are in possession of illegal weapons inside its territory?

Response: A number of measures are taken to disarm persons who are in possession of illegal weapons such as:

- Intelligence Agencies are tasked to forewarn relevant authorities about presence of illegal weapons.
- Raids are conducted on suspected sites.
- Check posts are established on major transportation routes to check the flow of illegal weapons.
- Sources of illegal weapons are blocked.

Paragraph 1.19

In its first report (S/2001/1310) dated 27 December 2001, Pakistan mentions that it had banned the issuing of licenses to bear arms. It also mentioned that it had approved "a positive list" of weapons for which a license would be required in future (see pages 6 and 7 of the first report). In that regard, could Pakistan please indicate the types of weapons which have been included in the approved "positive list" referred to in its first report?

Response: The types of weapons included in the approved "positive list" are as under:

- Shotgun-12/14/16 bore
- Revolver/Pistol –All bores
- Rifle- 22 bore (non-automatic)

Paragraph 1.20

In relation to the new licensing system for weapons mentioned in the "positive" list [at page 7 of the first report]:

i. Please outline the conditions which an individual has to meet under Pakistan's licensing system so as to be legally entitled to purchase a firearm(s).

ii. How many weapons of a particular type may be licensed for each individual? Are there any exemptions or exceptions in that regard?

iii. Does the licensing system allow for transfers of licenses? If yes, under what *conditions?*

iv. How long is a license valid? Is a specific agency or department responsible for monitoring the validity and/or expiry of individual licenses?

Response: The sale and purchase of arms and explosives is strictly regulated in Pakistan. The arms are sold only by the authorized dealers to those individuals who have been issued arms licences. The un-authorized possession and sale of weapons leads to serious legal action against the defaulters. The issuance of licences for prohibited bore weapons has been banned. However, non-prohibited arms licences, on a limited scale, are issued to the gazetted officers of the Government and tax payer citizens. These licences are periodically renewed.

Paragraph 1.21

The CTC is aware that Pakistan may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organisations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of Pakistan's response to these matters as well as details of any efforts to implement international best practices, codes and standards which are relevant to the implementation of resolution 1373.

2. Assistance and guidance

With the gradual build-up of database in PISCES Programme, the Law Enforcing Agencies have shown their interest in utilizing the information available in PISCES system. There is a genuine requirement to extend the system to the law enforcement organizations enabling them to monitor the movement of suspected individuals. CTC is requested to provide assistance in early implementation of this programme.

The CTC is also requested to provide updated copies of central directory for identification of targets.